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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,919	04/30/2001	Sadao Nishibori	DED-3170-3	9911

7590 01/22/2004

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EXAMINER	
PIERCE, JEREMY R	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/843,919	NISHIBORI ET AL.	
	Examiner	Art Unit	
	Jeremy R. Pierce	1771	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on *16 December 2003*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-32 and 34-62*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): Cancellation of claims 9 and 12 would overcome the 112 rejection against them.

Continuation of 5. does NOT place the application in condition for allowance because: With regard to claim 2, Applicant argues the voids are provided in the high density portions. However, the indefiniteness of claim 2 is based on the recitation that the voids provide high density, not that the voids are provided in the high density. Applicant argues that the article has an excellent impact resiliency and therefore, has a spring structure. Applicant's article may have characteristics of a spring (i.e. resiliency), however, unless it is shaped as a spring, it does not have a spring "structure." Applicant argues that in Martin, it is impossible to obtain an article having low and high density portions without embossing, and that embossing creates an uneven thickness. However, the rejection was based on using Kargol's method for providing low density portions and high density portions in the product of Martin. The Martin reference was not used to show that feature. Applicant argues the Kargol reference does not teach or disclose filaments made from polyolefin and vinyl acetate EVA, or SBS resins. However, Martin was used to show this limitation of the claim. Applicant also argues that Kargol require a polymeric coating to bind the high density portions and the low density portions. However, Applicant's claims do not preclude the use of binder. Applicant argues Karami does not teach a structure obtained by changing take-off speed for taking off the extruded continuous filaments. However, the claims are directed to a product, and not a process of making a product. Applicant argues that Karami does no teach how to bind the high and low density portions. However, Hansen teaches that the fibers are thermobondable.